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South Carolina House of Representatives

Legislative Update

David H. Wilkins, Speaker of the House

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WEEK IN REVIEW

HOUSE

House members began the legislative week by mourning the loss of the Honorable Jean Laney Harris, as legislators, officials, staff, friends, and family converged upon Cheraw for Tuesday's funeral services.

The House gave third reading to H.3063 and H.3278. H.3063 is a bill to ratify the amendments to the South Carolina Constitution approved by voters in November's general election which revise certain qualifications for judicial offices, alter the means by which the General Assembly elects judicial offices, and establish a Judicial Merit Selection Commission to screen candidates for the offices. H.3278 provides for a binding statewide referendum in November of 1997 in which voters will determine whether the Confederate Flag will continue to be flown above the State House. In addition to the referendum, the bill provides that the removal or renaming of any monument, marker, flag, or memorial located on public property to honor the Confederacy or the Civil Rights Struggle cannot be accomplished without a two-thirds affirmative vote of each house of the General Assembly, if the memorial is located on state property, or a two-thirds affirmative vote of the appropriate local governing body, if the memorial is located on the property of a political subdivision. The House also amended and gave second and third reading to H.3038, which provides legislative delegations with alternative means of endorsing applications for notary public commissions. As amended, the bill affords delegations the option of allowing applications to be endorsed by (1) the members serving as chairman and secretary of the legislative delegation of the county where the applicant resides, and/or (2) the applicant's Senator or Representative.

SENATE

The Senate passed a reapportionment plan that calls for new elections for seven Senate seats. Those Senators who would have to run under this combined House and Senate plan include Sens. Dewitt Williams, Bill Mescher, Arthur Ravenel, Mike Rose, Hugh Leatherman, Ed Saleeby, and Dick Elliott. The plan now goes back to the House for approval. The plan calls for twenty-two special House elections. U.S. Justice Department approval is required by April 1. If the plan is approved, new elections will be held in November.

COMMITTEE ACTION

AGRICULTURE, NATURAL RESOURCES AND ENVIRONMENTAL AFFAIRS

The Environmental Affairs I Subcommittee gave a favorable recommendation to H.3243, which authorizes the Department of Health and Environmental Control to develop permits for the regulation of mining limited to excavations for topsoil or sand/clay fill material which do not require further processing. The subcommittee also voted to table H.3078, which prohibits smoking in barbershops and beauty salons.

EDUCATION AND PUBLIC WORKS

Education and Public Works subcommittees met and reported out two bills. The Highway General subcommittee reported H.3044 favorable with amendment. This bill provides that persons newly acquiring vehicles and owners of foreign vehicles being moved into South Carolina and required to be registered must, before obtaining a motor vehicle registration and license plate, display a placard on the motor vehicle containing certain information. The bill was amended in subcommittee to provide that display of false information will result in a fine of \$500, rather than \$200, as was provided in the original bill. Also, the subcommittee deleted the provision that three-fourths of any such fines would be remitted to the South Carolina Reinsurance Facility. The subcommittee also tabled H.3011 (concerning license plates for vehicles over thirty years old), and adjourned debate on H.3121 (concerning issuance of commemorative golf license plates).

The Primary and Secondary Education subcommittee reported favorably on H.3145, which prohibits the teaching of Ebonics in public elementary and secondary schools of South Carolina, and in the state-supported institutions of higher learning. The subcommittee adjourned debate on H.3100 (concerning makeup of school days missed) and H.3152 (concerning acceptance of participation in certain dance programs in lieu of physical education courses).

JUDICIARY

The full Judiciary Committee amended and gave a favorable report to Joint Resolution H.3143 which proposes amending the South Carolina Constitution so as to provide that the state's electors would vote on any measure creating or increasing general taxes which passes the General Assembly without the approval of at least two-thirds of the membership of the House of Representatives and at least two-thirds of the membership of the Senate. An amendment excluded fee increases which had been included in the version of the bill approved by the Constitutional Laws Subcommittee. The committee gave a favorable report to H.3144, a bill

requiring at least a two-thirds affirmative vote in each house of the General Assembly for passage of a measure which creates or increases a tax. Also receiving a favorable report was H.3254 which allows territory owned by a municipality to be removed from within the corporate limits of the municipality by ordinance of the municipal governing body. Territory owned by a county or jointly owned by the municipality and county may also be removed from corporate limits in this fashion upon receipt of a resolution from the county governing body requesting removal. The Committee returned to the General Laws Subcommittee H.3101 pertaining to the removal of a child out of state with the intent of circumventing a custody proceeding.

The Special Laws Subcommittee gave a favorable report to H.3230 which increases penalties for inappropriate solicitation on behalf of a charity and/or failure to comply with reporting requirements such that a first violation incurs a fine of not less than one thousand dollars and/or a prison term of six months to one year. The maximum prison term which may be incurred by a subsequent conviction is raised from one year to three years. The subcommittee amended and reported favorably on H.3215 which expands jurisdictions for local police forces when in pursuit of a fleeing offender. As amended, municipal officers may pursue anywhere in the surrounding county and county officers may pursue into adjoining counties. Officers' liability coverage is extended to cover these pursuit situations.

The Constitutional Laws Subcommittee reported favorably on H.3157, a joint resolution which proposes amending the South Carolina Constitution so as to impose a maximum limit of six terms of service for members of the House of Representatives, three terms for members of the Senate, and three terms for constitutional officers. Terms of service would be counted for members of the General Assembly beginning with the 1996 general election; terms for constitutional officers would be counted beginning in the 1998 election. The subcommittee also reported favorably on S.199, a concurrent resolution which extends until May 1, 1997, the reporting date for the study committee established to formulate recommendations concerning the duties, authority, and qualifications of the state's magistrates.

The Criminal Laws Subcommittee reported favorably on H.3089 which increases the maximum penalty for violating the mandatory seatbelt law from ten to twenty-five dollars, and from twenty to fifty dollars for any one incident involving one or more violations. The bill also removes the restriction which prevents an officer from stopping a driver solely for failure to use seatbelts.

The General Laws Subcommittee amended and reported favorably on H.3086 which provides that an individual or an individual's estate may not receive court awards for damages or injuries sustained while committing a felony. The Subcommittee also gave a favorable report to H.3153 which substitutes the term "life-sustaining" for "death-prolonging" in the code language which provides that the absence of a declaration of a desire for a natural death does not create a presumption as to the patient's wishes.

LABOR, COMMERCE AND INDUSTRY

The full Labor, Commerce and Industry Committee gave a favorable report to H.3039, as amended, which prohibits so-called "gag clauses" in contracts between insurance companies and health care providers. The bill prohibits insurers from limiting a health care provider's ability to discuss with his patients treatment options, recommendations, and the risks associated with various courses of treatment. The committee also reported favorably on the amended version of H.3257, a bill which eliminates the Insurance Department Director's *ex officio* chairman status on the board of directors of the Medical Malpractice Liability Joint Underwriting Association and the board of governors for the Patients' Compensation Fund. The legislation addresses the Director's concerns that his membership on these boards potentially hampers his ability to regulate the entities, and may constitute dual office holding prohibited under the S.C. Constitution. The bill also eliminates the provision that actions of the Medical Malpractice J.U.A. may be appealed to the Department of Insurance. Also receiving favorable reports were H.3158 and H.3169. H.3158 creates a Privatization Policy Board to study and make recommendations regarding which state agency services might be more efficiently delivered by another state agency or through contract with the private sector. H.3169 conforms the Real Estate Commission to the uniform administrative framework for professional and occupational licensing boards established in 1996. The bill makes various other revisions, such as expanding duties for "brokers-in-charge" and establishing minimum requirements for initial licensure as a real estate salesman. The committee tabled H.3129 which requires passenger vans of local chapters of the National Federation of the Blind to carry the minimum automobile insurance coverage required on comparable vehicles operated by state agencies.

The Business and Commerce Subcommittee amended and reported favorably on H.3272 which revises the Consumer Protection Code as it pertains to a creditor's failure to obtain the borrower's preference of legal counsel and insurance agent before the closing of a mortgage loan. The bill prohibits borrowers from filing class action suits on such violations, sets a time limit on pursuing individual causes of action, and limits amounts which may be recovered in such suits.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS COMMITTEE

The House Military and Public Affairs Subcommittee approved H.3119, which ensures that all public officers and employees receive the same number of hours paid leave for service in reserve units, regardless of the length of their regularly scheduled work shift. The subcommittee also gave a favorable recommendation to H.3253, which allows the Adjutant General to order a member of the National Guard to active duty for a state mission, provided the member consents to the order and funds are available without additional state appropriations.

WAYS AND MEANS

The full Ways and Means Committee met and reported favorably on H.3176, which concerns University of South Carolina athletics facilities revenue bonds. The bill defines "net athletic revenues," removes the twenty million dollar debt limit for these bonds, and allows their use for refunding any previous authorized bonds. The University of South Carolina states that enactment of this legislation would have no fiscal impact on the General Fund of the State.

The Ways and Means Committee also received a budget outlook presentation by Dr. William C. Gillespie, Chief Economist for the S.C. Board of Economic Advisors (BEA). That presentation included a forecast from the BEA for an increase of \$245 million of General Fund revenue in FY1997-98 over the FY1996-97 Appropriation Act, and an increase of \$217 million in the General Fund spending limit. The Sales and Income taxes are forecast to grow 4.8 percent and Base Recurring revenues are forecast to grow 3.6 percent. There are \$27 million of new tax reductions in the FY 1997-98 General Fund Revenue estimate, and a total of \$61 million of tax reductions over the last two fiscal years. The Carnell-Felder spending limit will reduce the amount available for appropriations by \$80 million. After receiving this report, the Ways and Means Committee adopted a FY1997-98 Appropriation Base of \$4,428,128,314.

Ways and Means subcommittees continued to meet and hear agency reports and budget requests. The Ways and Means Revenue subcommittee met and received an update on property tax relief funding recommendations by the Governor. No action was taken.

BILLS INTRODUCED

AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

H.3303 SHOOTING OR HUNTING BIG GAME Rep. Wilkes

This bill prohibits the shooting or hunting of big game from any public, paved road in Game Zones 1, 2, and 4 and provides that a person convicted of this misdemeanor offense must be fined from \$100 to \$500 or imprisoned for up to 30 days. The bill also repeals Section 50-11-760, which relates to hunting from public roads and rights-of-way owned by railroads.

H.3314 COASTAL FISHERIES LAWS Rep. Limehouse

This bill makes several changes in South Carolina's coastal fisheries laws, including revisions in the requirements for nonresident fishermen who hold seafood dealer's licenses and revisions in the requirements for using crab pots for commercial purposes. The bill also provides the circumstances and times when it is lawful to set crab pots and possess crabs and requires any vessel fishing for blue crabs with traps to have a crab trap identification number permanently displayed on the side of the vessel.

H.3318 FOUNDATION SEED ORGANIZATION REP. TOWNSEND

This bill relates to the foundation seed program and provides that the purpose of the program is the production, processing, and distribution of pure varieties of crop seeds and plants. The bill also requires the cooperation of the South Carolina Crop Improvement Association, Clemson University, and the State Department of Agriculture in carrying out the purposes of the foundation.

H.3325 LIMITS ON FISH Rep. Law

This bill states that a maximum of 5 black bass (which must be 12 inches in length) may be taken from Lakes Marion and Moultrie and in certain parts of the Santee River.

H.3330 LICENSURE AND REGULATION OF GEOLOGISTS Rep. Sharpe

This bill rewrites the chapter of the South Carolina Code dealing with the licensure and regulation of geologists to conform the chapter to the organizational and administrative framework for professions in Chapter 1, Title 40. The bill sets forth the powers and duties of the State Board of Registration for Geologists and includes the requirements needed for a person to be registered as a professional geologist.

EDUCATION AND PUBLIC WORKS

H.3300 FRATERNITY/SORORITY LICENSE PLATES Rep. Breeland

This bill provides that, for a fee of seventy dollars every two years (in addition to the regular motor vehicle registration fee), a special license plate may be issued for certified fraternities or sororities. Fees collected must be distributed to a separate fund for each of the respective fraternities or sororities and may be used only for academic scholarships. Distribution of the fee revenue is based on the total number of special license plates sold and on the number sold for the respective fraternity or sorority. One hundred or more applications requesting a special license plate for a fraternity or sorority must be received before a special plate may be developed for that organization.

H.3302 PROOF OF INSURANCE FOR DRIVERS Rep. Stille

This bill provides that the person driving or in control of a vehicle must at all times carry proof of insurance that covers the period that the vehicle is being operated, and must display such proof upon demand of a law enforcement officer.

H.3305 TUITION SURCHARGES/STATE-SUPPORT COLLEGES/UNIVERSITIES Rep. Stille

This bill provides a twenty-five percent tuition surcharge on students who take more than one hundred forty credit hours to complete a baccalaureate degree in a four-year program at any state-supported college or university of this state, or more than one hundred ten percent of the credit hours necessary to complete a baccalaureate degree in any program designated by the Commission on Higher Education as a five-year program at any state-supported college or university of this state.

H.3310 STATE EMPLOYEE GRIEVANCES Rep. Stille

This bill provides that the provisions of the State Employee Grievance Procedure do not apply to certain Department of Transportation employees.

H.3311 *TRAFFIC REGULATIONS* Rep. Kirsh

This bill provides that a vehicle attempting to overtake or pass another vehicle on the left side of center of the road shall yield the right-of-way to a vehicle attempting to move left upon the roadway.

H.3340 *BELLE W. BARUCH FOUNDATION PROPERTY* Rep. Hawkins

This bill provides that any fully-accredited, not-for-profit public or private college or university headquartered in this state or under the supervision of such college or university may undertake educational and research activities on the Belle W. Baruch Foundation property (a bird and game refuge). These activities are currently allowed only for (or under the supervision of) the University of South Carolina or Clemson University.

H.3341 *SONS OF CONFEDERATE VETERANS LICENSE PLATES* Rep. Cooper

This bill provides for the issuance of special license plates to members of the Sons of Confederate Veterans for private motor vehicles registered in their names.

JUDICIARY

H.3301 *DRIVING UNDER THE INFLUENCE* Rep. Stille

This bill lowers from ten one-hundredths of one percent to eight one-hundredths of one percent the minimum blood alcohol weight at which a driver at least twenty-one years of age may be presumed to have been driving under the influence of alcohol. The bill also provides that any percent weight of alcohol detected in the blood of a driver under the age of twenty-one is reason enough to infer that the person was driving while under the influence of alcohol.

H.3304 *MANDATORY USE OF SEATBELTS* Rep. Stille

This bill eliminates a law enforcement officer's ability to stop a driver solely for the failure to use seatbelts when the stop is made in conjunction with a driver's license or registration check conducted at a checkpoint established to stop all drivers on a certain road for a period of time.

H.3315 *SEXUALLY VIOLENT PREDATOR ACT* Rep. Limehouse

This bill creates the designation "sexually violent predator" to classify individuals who have been convicted or charged with a sexually violent offense and who suffer from a mental abnormality or personality disorder which makes the individual likely to engage in acts of sexual violence, if not confined to a secure facility. A procedure is established by which an individual who is suspected of being a sexually violent predator and who is about to be released from custody is reported to the Attorney General and a Department of Corrections multidisciplinary team. Upon assessing reports, the Attorney General may petition for a hearing and then a trial is conducted to determine whether the individual may be classified as a sexually violent predator. If determined to be a predator, the individual must be transferred to the custody of the Department of Mental Health for control, care, and treatment until such time as the individual's abnormality or personality disorder has so changed that the person is safe to be at large. Individuals committed in this way must have their mental condition reviewed annually.

H.3316 SUSPENSION PERIODS FOR DRIVING UNDER THE INFLUENCE Rep. G. Brown

This bill provides that driver's license suspension for driving under the influence of alcohol or drugs must begin on the date the individual is convicted, receives sentence upon a guilty or *nolo contendere* plea, or forfeits bail.

H.3331 CRIMINAL HISTORY CHECKS FOR NURSING HOME EMPLOYEES Rep. Knotts

This bill requires nursing homes and home health agencies to obtain from the South Carolina Law Enforcement Division a criminal history check on all applicants for employment. Applicants may not be employed if the background check reveals specified violations. Current employees whose duties involve direct care for clients must be subjected to such reviews.

H.3333 ASSAULT ON EMERGENCY MEDICAL SERVICE WORKERS Rep. Koon

This bill provides that assault on an emergency medical service worker who is performing his professional duties is a felony punishable with a prison term of between two and ten years. An individual serving time for a first offense is not eligible for parole or suspended sentence before serving six months of his sentence; those serving time for a second or subsequent offense are not eligible before two years.

H.3337 ADMINISTRATIVE LAW JUDGES Rep. D. Smith

This bill provides that Administrative Law Judges may appoint, hire, contract, and supervise the support staff the judge is individually allotted. Rules governing practice and procedure may be promulgated upon approval by a majority of the division.

LABOR, COMMERCE, AND INDUSTRY

H.3299 LEGAL SERVICES INSURANCE Rep. Sharpe

This bill revises the language "contractual obligation for legal services" to read "contractual obligation for reimbursement of legal services" in the statutory requirement that such insurance contracts allow the insured his choice of attorney.

H.3328 HAZARDOUS MATERIALS-SPILL RESPONSE TEAMS Rep. Sharpe

This bill sets as the salary for members of organized volunteer hazardous materials-spill response teams at thirty-seven and one-half percent of the average weekly wage in this state for the preceding year.

H.3329 STATE EMPLOYEE DEDUCTION FOR PREPAID LEGAL INSURANCE Rep. Sharpe

This bill adds prepaid legal insurance to the list of insurance plan premiums which a state employee may opt to pay for through deductions from pay.

H.3342 SHARES ISSUED BY PROFESSIONAL CORPORATIONS Rep. Sandifer

This bill authorizes a professional corporation to issue shares to employees of the corporation who are not licensed to practice the professional service described in the corporation's articles of incorporation. Such employees shall not own more than one-third of the total issued and outstanding shares of the professional corporation.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

H.3309 CRIMINAL RECORD CHECKS OF DIRECT CAREGIVERS Rep. Neilson

This bill prohibits a nursing home or home health agency from employing a direct caregiver if the caregiver has been convicted of any one of a number of offenses listed in the bill. A person convicted of one of the listed crimes who applies for employment with a nursing home or home health agency as a direct caregiver is guilty of a misdemeanor punishable by a fine of not more than \$5,000 and/or imprisonment for up to one year. To be employed by a nursing home or home health agency, a direct caregiver must undergo a state and federal fingerprint review (direct caregivers employed on July 1, 1997 are exempt from this requirement). The bill also allows nursing homes and home health agencies to provide other nursing homes and home health agencies with personnel records of current or former employees without incurring civil or criminal liability by releasing this information.

WAYS AND MEANS

H.3297 SALES & PROPERTY TAXES Rep. Walker

This bill provides an exemption from sales tax on the gross proceeds of sales, or the sales price of food items eligible for purchase with U.S. Department of Agriculture food coupons (not including restaurant meals). The bill also provides an exemption from *ad valorem* property taxation (from millage imposed for schools) on one hundred percent of the fair market value of all private passenger motor vehicles, and on trucks with an empty weight of not more than five thousand pounds.

The bill imposes an additional one percent (1%) state sales, use, and casual excise tax on items which are not subject to a maximum tax; raises the maximum sales and use tax on motor vehicles and certain other items from \$300 to \$360; and changes the method of calculating tax on the sale of a manufactured home. The bill provides that the revenue from the additional tax will be credited to a fund known as the "Motor Vehicle Property Tax Relief Fund." Revenues in this fund must be used to reimburse school districts for revenues not collected because of the exemption allowed for private passenger motor vehicles and pickup trucks. Any excess revenue (above the amount required for reimbursement) goes to the Education Improvement Act Fund.

H.3298 PROPERTY TAX VALUATION ON UNDEVELOPED ACREAGE Rep. Walker

This bill deletes the multiple lot discount provision allowed for purposes of property tax valuation when undeveloped acreage is surveyed into subdivision lots, and provides that the market value for property tax purposes of the lots and residences constructed thereon shall continue to be their value as undeveloped acreage until the lot is sold or the residence is certified for occupancy, whichever occurs first. Current law provides that the county assessor shall appraise each lot as an individual property and then discount his gross actual market value estimate of the developer's lot holdings under certain conditions.

H.3306 INCOME TAX CREDIT FOR LONG-TERM CARE INSURANCE Rep. Neilson

This bill provides an individual taxpayer an income tax credit of twenty percent of long-term care insurance premiums paid by the taxpayer for the taxpayer's own insurance or for insurance for a spouse or dependent, limited to three hundred dollars each and six hundred dollars total each taxable year.

H.3307 EMPLOYER TAX CREDITS FOR ADULT CARE PROGRAMS Rep. Neilson

This bill provides income tax credits for employers who provide adult care programs for employees.

H.3308 HOMESTEAD EXEMPTION FOR TAXPAYERS OVER 65 Rep. Neilson

This bill raises the homestead exemption from twenty thousand dollars to twenty-five thousand dollars for taxpayers who are over age 65, totally and permanently disabled, or legally blind.

H.3312 STATE CAPITAL IMPROVEMENT BONDS Rep. Carnell

This bill authorizes the issuance of \$250,660,401 in state capital improvement bonds for projects which are specified within the bill. These projects include higher education institution capital improvements, Department of Corrections capital improvements, and funds for capital improvements for the Department of Education (Governor's School for Science and Math), the Department of Natural Resources, the Adjutant General, the Department of Juvenile Justice, ETV, and the Department of Commerce.

H.3313 DISTRIBUTION OF "C" FUNDS Rep. Limehouse

This bill deletes the existing distribution formula for "C" funds derived from the 2.66 cents a gallon gasoline tax so as to provide that the monies will be apportioned among counties of the state in the ratio that retail sales of gasoline by gallon in the county are to the total of such sales statewide.

H.3317 LAW ENFORCEMENT TRAINING Rep. Bailey

This bill provides reimbursement to a municipality or other governmental entity for costs expended on a law enforcement officer attending the mandatory training program required under current law. Every municipality or governmental entity of this state intending to permanently employ a law enforcement officer who has satisfactorily completed this training must comply with the provisions of the bill. If an officer has completed this training while in the employ of another municipality or governmental unit of this state within two years from the date of satisfactory completion of the training, the hiring municipality shall reimburse the municipality or other governmental unit with whom the police officer was employed at the time of attending the training program, for the costs of training the officer. During the first year after completion of the mandatory training program, reimbursement must be 100% of the costs, and during the second year reimbursement must be 50% of the costs.

H.3332 TAXATION ON BOATS Rep. Witherspoon

This bill provides that a boat on which the interest portion of any indebtedness thereon would be tax deductible under the Internal Revenue Code as an interest expense on a qualified primary or secondary residence is also deemed to be a primary or secondary residence for purposes of *ad valorem* taxation in this State and is considered real rather than personal property for these

purposes. The bill further provides that the maximum *ad valorem* taxation on such a boat for any year is \$1,500.00.

H.3343 SC TUITION PREPAYMENT PROGRAM Rep. Limbaugh

This bill establishes the "South Carolina Tuition Prepayment Program" as a program within the Budget and Control Board. Through this program college tuition may be paid in advance at a fixed, guaranteed level for a designated beneficiary to attend a South Carolina public educational institution of higher learning. The bill provides that the program will be staffed by a director and will have an advisory board whose representation, skills, experience, and authority are delineated in the bill. The director of the program must be appointed and supervised by the executive director of the Budget and Control Board.

H.3344 TWENTY-FIVE YEAR RETIREMENT Rep. Walker

This bill allows persons who are at least fifty years old and who have at least twenty-five (but less than thirty) years of creditable service to retire under the SC Retirement System. The bill raises employee contributions to the system by 1.38% and increases employee health and dental insurance premiums to offset the additional insurance costs resulting from early retirements.

H.3345 PROPERTY TAX EXEMPTIONS FOR LEGALLY BLIND Rep. Littlejohn

This bill provides an exemption from property taxes for not more than two personal motor vehicles owned or leased by a person whose vision meets the definition of "blindness" as defined for purposes of qualifying for services from the SC Commission for the Blind.